

## **EXHIBIT 4**

## PROBATE COURT



### Muskegon County Michigan

#### JUDGES

Honorable Neil G. Mullally, Chief Judge  
Honorable Gregory C. Pittman, Chief Judge Pro Tem

#### PROBATE COURT ADMINISTRATION

Kathy Hoogstra, Administrator/Probate Register  
Heather Starr, Chief Deputy Register

July 13, 2012

#### STAFF

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Wendy Hotvluwer  
250 Monroe Ave., NW, Suite 800  
Grand Rapids, MI 49503

RE: Barbara J. Rogers  
Case No. 09-85971-DD

Dear Counsel:

Enclosed please find the report filed by the Court-appointed visitor in this matter, Margaret O'Toole, the Executive Director of the ARC agency of Muskegon County.

Based upon this report and the previous history of this case, I have also issued the enclosed order.

It should be obvious to all concerned with Barbara Rogers' welfare that she, like many developmentally disabled persons, is very vulnerable to suggestion and manipulation, often making statements based upon the most recent person with whom she has had contact. The history of this case, once again confirmed by Margaret O'Toole's report, establishes that the guardian's continuation of Barbara Rogers' life-long living arrangements and established medical care remain in the best interest for her welfare.

Very truly yours,

A handwritten signature in black ink, appearing to read "Neil G. Mullally", written over a horizontal line.

Hon. Neil G. Mullally  
Chief Probate Judge

Enclosure

**STATE OF MICHIGAN**  
**IN THE PROBATE COURT, COUNTY OF MUSKEGON**

IN THE MATTER OF:

File No. 09-85971-DD  
Hon. Neil G. Mullally

BARBARA ROGERS  
\_\_\_\_\_ /

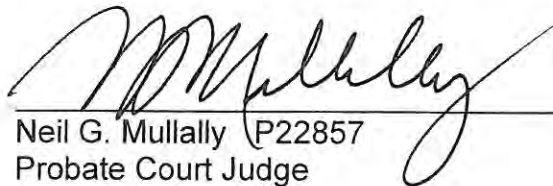
**ORDER**

The Court having received and reviewed the attached visitor's report from Margaret O'Toole, and the Court taking judicial notice of the previous litigation and orders in this case, the Court hereby denies the "Motion to Place Barbara J. Rogers in Covenant Village and for Medical Evaluation." No further pleadings or discovery shall occur related to said motion.

The guardian, Lynn E. Worfel, shall remain fully empowered to make decisions for Barbara J. Rogers' care, comfort, and maintenance, including living arrangements, access to Barbara J. Rogers by relatives and non-relatives, and medical care.

IT IS SO ORDERED.

Dated: July 13, 2012

  
\_\_\_\_\_  
Neil G. Mullally P22857  
Probate Court Judge



*Achieve with us.*

June 27, 2012

The Honorable Neil G. Mullally  
Michael E. Kobza Hall of Justice  
990 Terrace St.  
Muskegon, MI 49442

Re: Barbara Rogers  
Case No. 09-85971-DD

Dear Judge Mullally,

Enclosed you will find the results of my investigation and independent living assessment regarding Barbara Rogers. I believe that per your letter dated May 2, I have evaluated and responded to all four areas and beyond.

It is been my pleasure to assist the Court and thank you for trusting our ability to provide an impartial opinion. If you have any questions, please feel free to contact me. Thank you again.

Sincerely,

A handwritten signature in black ink, appearing to read 'Margaret O'Toole'. The signature is fluid and cursive, with the first name 'Margaret' being more prominent.

Margaret O'Toole  
Executive Director

MO/mlr

RECEIVED  
JUN 27 2012  
FAMILY COURT

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The Arc Muskegon  
Community Living General Assessment  
June 27, 2012

Name: Barbara Rogers, Age 75  
Date of visit: May 30, 2012 & calls on 6/19/ and 6/25/12  
Completed by: Margaret O'Toole  
Length of visit: 2:00-3:15pm  
Disability/Diagnosis: Mild intellectual disability  
People present: Margaret O'Toole, Barbara Rogers & Lynne Worfel  
After introductions Barb gave a tour of her home, (excluding the basement). Everyone settled at the kitchen table. The information below are answers to questions and from visual observation. (The questions followed a tool used at The Arc Muskegon to assess a person's independent living skills and ability).

**Services & Supports**

Community Mental Health-No  
Department of Human Services-No  
Lawn service-Yes  
Cleaning lady-Yes, every other week  
Nurse-twice per year (in home visit)

**Income**

Social Security- Assume so  
Currently employed at Rogers Printing-part time (Tues. & Thurs.)

**Medical**

**Physician**-very happy with her current primary care doctor-David Deitrick. Barb did mention him retiring and she met another physician in the office and wants to make that transition when the time comes. Barb showed me her heart monitoring device and spoke at length about how it works and what her responsibilities are. I also saw her monitor on the kitchen counter which she had to explain what it was and its function.

**Dentist**-very satisfied

Do you drive? No Bus system? No

Who takes you to appointments? Gladys Rogers

Who makes the appointments? Ralph Rogers

(I also noticed Barbara keeps a calendar with all appointments/events)

**Medication & General Health Questions**

Who helps you set up your meds? Ralph sets them up.

Physical limitations? None noted besides stairs aren't her favorite-some other minor aches and pains.

A medication box is set up each week & Barbara explained & showed me the process.

**Other Independent Living Skills**

**Budgeting**-with help from Gladys. Barb showed me her monthly ledger and how she keeps track of her expenses. Very impressive.

**Banking**- with help from Gladys

Do you receive mail? My mail goes to Rogers Printing

**Cooking**-Mainly the microwave. Barb bakes sometimes.

**Cleaning**-Daily housework-but has a cleaning lady ☺ Her home was very clean and comfortable.

**Shopping**-Yes, but with assistance from Gladys

**Reader**- Yes

JUN 27 2012

### **Safety issues**

Smoke alarm-yes (talked about when to change it)

What is an emergency? Barb could not provide an example. What would you do?

- 1) Call 911
- 2) Call Ralph (and then told me the number)

Lock doors at night? yes

Outside light? No

Do you want to continue living here? Yes, absolutely

Cell phone? Yes

### **Family/Friendships**

Who is your family? Ralph, Gladys, Boo (sister Liz), nieces & nephews (I know there is another sister Patricia)

Visitors? It appears not many besides family, and my impression was she sees her friends at work.

Neighbors? Did not know their names

Co-workers? "Amy" was the only one she could name but spoke highly of everyone, considered them friends and very good to her.

### **Activities**

Senior Center (Reformed Church)

Likes to do scrapbooking

Ravenna American Legion

Sporting events with family

Cabin up north (with family)

Dinner at Ralph & Gladys'-once per week

Ravenna Methodist Church

Out of town visits? She goes to Chicago, but does not want to anymore. Barbara was sensitive to this issue, and I think considered it a private issue; which it is. As we talked further she expressed to me her sister, Boo wanted her to move to Grand Rapids. By no means does Barb want to do that and noted that the situation has gotten "nasty".

### **Recommendation & Comments**

I met with Barbara Rogers on May 30, 2012. She welcomed me into her home and I spent a few minutes talking about my purpose and noted too that at any time if I was getting too personal to please let me know. I was very conscious of the fact that I was a complete stranger. The visit told me a great deal about Barb, both from her verbal responses and in the manner and willingness to provide information. My impression was that we eased into an appropriate comfort level with respect toward each other.

Before and after the visit I received numerous documents pertaining to this issue-much of it I found very personal and irrelevant. I focused on 4 documents besides my assessment tool, notes and some follow up conversations with Barb and Lynne Worfel.

The documents were as follows:

- 1) Probate Court letter dated May 2, 2012
- 2) Dr. Joseph Auffrey's 2009 evaluation
- 3) David H. Deitrick, MD evaluation of 2008 and update from 4/17/12
- 4) Guidelines For The Care Of Barbara Rogers 5/2012

It is my professional recommendation that Barb continues to enjoy and live in her home at 12160 Stafford St., Ravenna MI. My decision is based on Barb's physical health, excellent medical care, her wishes, and her right and ability to live independently as long as she is safe, which I believe she currently is.



#### **Further Comments & Concerns**

- **Mail**-I found this restrictive
- **Activities**-possibly introduce Barb to some new people through the senior center, local classes of interest to her, physical therapy or volunteer work. This could be through a senior companion, a hired staff person or church member. This would expand her friendship base. (The Arc can help with this if needed).
- **Alternatives to Guardianship**-I would be remiss in promoting The Arc's mission of limited guardianship if I did not mention alternatives such as POA (for legal and healthcare, representative payee and other options everyone is aware of). I realize the extenuating circumstances, but thought it important to note.

It is my personal and professional hope that Barb's wishes are respected even if it includes some life risks, which we all may endure. Her (collective) support system, financial security and home are to be envied. Barb deserves to enjoy her senior years free of conflict.

Margaret O'Toole June 27, 2012